

COUNTY OF LOS ANGELES  
DEPARTMENT OF PARKS AND RECREATION  
*"Creating Community Through People, Parks and Programs"*



Tim Gallagher, Director

April 6, 2004

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

**AUTHORIZATION FOR THE COMMUNITY DEVELOPMENT COMMISSION TO ACT  
ON BEHALF OF THE DEPARTMENT TO RESOLVE LABOR COMPLIANCE  
ISSUES, INCLUDING POTENTIAL WAGE RESTITUTIONS TO WORKERS,  
FOR THE AMIGO PARK GENERAL IMPROVEMENT PROJECT,  
LENNOX PARK GENERAL IMPROVEMENT PROJECT AND  
ROOSEVELT PARK GENERAL IMPROVEMENT PROJECT  
(1<sup>ST</sup>, 2<sup>ND</sup> AND 4<sup>TH</sup> Districts — 3-Vote Matter)**

**IT IS RECOMMENDED THAT YOUR BOARD:**

- 1 Find this action exempt under the California Environmental Quality Act (CEQA).
2. Authorize the Community Development Commission (CDC), on behalf of the Department and the County, to pursue necessary actions to resolve outstanding labor compliance issues on the Amigo Park General Improvement Project, Lennox Park General Improvement Project and Roosevelt Park General Improvement Project.
3. Authorize the Department to deposit with CDC sufficient funds to make wage restitution payments to affected workers or to the Department of Labor as necessary and to reimburse CDC for its costs in resolving the labor compliance issues in an amount not to exceed \$67,000 to be funded from the Department's Fiscal Year 2003-04 Adopted Budget.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The recommended actions will allow the Department to access the expertise of CDC in bringing final resolution to labor compliance issues related to the Amigo Park General Improvement Project, the Lennox Park General Improvement Project, and the Roosevelt Park General Improvement Project, which were partially funded with

Community Development Block Grants (CDBG), a federally funded program administered by the Department of Housing and Urban Development (HUD). Failure to resolve the findings in the most expeditious manner may result in penalties from HUD that could restrict future CDBG awards to the Department and/or CDC.

### Background

In March 2001, HUD conducted a preliminary review of the project records for the Amigo Park General Improvement Project, which was partially funded with CDBG funds. Contractors and subcontractors working on projects funded in whole or in part by CDBG funds are required to pay the Federal Prevailing Wage Rate, including salary and fringe benefits. The preliminary review revealed potential violations related to these Federal labor requirements.

In February 2003 in conjunction with HUD, CDC conducted a more comprehensive review to determine whether the Department had established internal systems and processes to correct the deficiencies identified by HUD. This comprehensive review included not only the Amigo Park General Improvement Project, but also the Lennox Park General Improvement Project and the Roosevelt Park General Improvement Project, which were also partially funded through the CDBG program. This review identified potential Federal wage violations on each of the projects.

### Amigo Park General Improvement Project

The Amigo Park General Improvement Project was substantially completed in July 2001. On April 2, 2002, your Board accepted the completed project and authorized the Department to release the retention amount of \$98,294 to the general contractor, Adams Mallory Construction Company.

The compliance report from CDC for the Amigo Park General Improvement Project was sent to the Department on April 24, 2003, and indicated potential wage underpayments to workers in the amount of \$46,031.77, consisting primarily of underpayment of Federal prevailing wages and unidentified payroll deductions.

Department staff has worked with CDC staff, the contractor and subcontractors to resolve the findings resulting from the audit and has provided additional documentation to support the resolution of the findings. As a result of this work, the amount of the total potential wage restitution has been reduced. The Department currently estimates the total outstanding wage underpayment does not exceed \$23,786 and may be as little as \$6,567 pending HUD and CDC concurrence with the Department's analysis.

The contractor and one of the subcontractors, Micon Construction Company, have deposited a total of \$2,816.71 with the Department and CDC to pay potential wage restitutions for workers who could not be located. In addition, the Department is still withholding partial retention (\$5,332.86) in an escrow account with accrued interest from the Amigo Park contractor based on the disputed amounts related to other subcontractors.

#### Lennox Park General Improvement Project

The Lennox Park General Improvement Project was substantially completed in April 2002.

The compliance report from CDC for the Lennox Park General Improvement Project was sent to the Department on April 24, 2003, and indicated potential wage underpayments to workers in the amount of \$163,786.88, consisting primarily of underpayment of Federal prevailing wages and unidentified payroll deductions.

On December 2, 2003, your Board accepted the completed project and authorized the Department to release a portion of the retention to the contractor, Alfa-26 Construction Company. In the same action, your Board authorized the Department to withhold a balance of \$65,264, which represented the remaining potential underpayment for labor compliance issues at the time the project was accepted. Your Board also authorized the Department to release the balance of the retention, in whole or in part, as labor compliance issues were resolved and the potential underpayments were reduced.

Department staff has worked with CDC staff and the contractor to resolve the findings resulting from the audit. Based upon the documentation submitted, the total wage underpayment as of March 18 had been reduced to approximately \$9,555. Based upon the revised wage underpayment, the Department has reduced the balance of the retention withheld to \$9,555. While the Department continues to work with the contractor to clear the remaining findings, one of the subcontractors has gone out of business making it impossible to obtain the required records. As a result, the 14 affected workers may need to be located and wage restitutions made directly to them or deposited with the Department of Labor.

#### Roosevelt Park General Improvement Project

The Roosevelt Park General Improvement Project was substantially completed in April 2002. On October 29, 2002, your Board accepted the completed project and authorized the Department to release the retention to the contractor, Ecology Construction.

The compliance report from CDC for the Roosevelt Park General Improvement Project was sent to the Department on April 24, 2003, and indicated potential wage underpayments to workers in the amount of \$5,607.99, consisting of underpayment of Federal prevailing wages and unidentified payroll deductions.

Department staff has worked with CDC staff and subcontractors to resolve the findings resulting from the audit. To date, however, the amount of the total potential wage restitution has been reduced by only \$2,564.67, leaving an outstanding wage underpayment of approximately \$3,043.

#### Authorization to Deposit Funds

The Department is recommending that it be authorized to deposit funds with CDC in an amount not to exceed \$67,000 to allow CDC to expedite the resolution of the findings without further delay and thus minimize the possibility that HUD will penalize or sanction the Department and/or CDC.

As a result of their extensive experience with federally funded contracts subject to Federal labor requirements, CDC staff has the expertise necessary to resolve the remaining issues with the contractors and subcontractors or, if necessary, to make wage restitutions to the workers or to the Department of Labor.

The deposit will allow CDC to make any such wage restitutions up to the current estimate of \$36,383 and provide \$30,000 to reimburse CDC for its costs in resolving the findings.

#### Corrective Action for Future Projects

In addition to the potential wage underpayments, the comprehensive review conducted by CDC and outlined in the compliance reports identified several weaknesses in the Department's procedures for monitoring contractor compliance with the Federal wage requirements. These weaknesses included inadequate review of the certified payrolls to ensure that workers were identified by the appropriate Federal classification and that Federal prevailing wages were met, as well as procedural requirements such as insufficient interviews of workers during construction of the project. In response to those reports, the Department has developed a specific policy and procedure for capital projects that are funded in whole or in part by CDBG funds which clearly delineates the roles and responsibilities of each section of the Department that is involved in the monitoring and enforcement of the contracts to prevent these types of findings in the future. This policy and procedure has been reviewed by CDC and has been incorporated into its training materials as an example for other agencies and departments to follow.

### **Implementation of Strategic Plan Goals**

The recommended action is consistent with the County Strategic Plan Goal of Fiscal Responsibility. The proposed actions will resolve the remaining labor compliance issues and preserve CDBG funding for the County.

### **FISCAL IMPACT/FINANCING**

Upon your Board's approval, the \$67,000 deposit with CDC will be paid from the Department's Fiscal Year 2003-04 Adopted Budget to allow CDC to make wage restitutions to affected workers or the Department of Labor, as necessary. The deposit will also be used by CDC to offset its costs in resolving the labor compliance issues.

Upon completion of the work, CDC will provide an accounting of the funds and return any remaining balance to the Department, at which time the Department may seek reimbursement of any wage restitution payments on the Lennox Park Project from the contractor's retention and on the Amigo Park Project from the contractor's retention and/or from the contractor subcontractor's deposits, as applicable and appropriate.

### **FACTS AND PROVISIONS / LEGAL REQUIREMENTS**

All three projects were funded in part through the CDBG program. In accordance with the special conditions of the Department's Interagency Agreements with the CDC, the Department is required to comply with the Federal Labor Standard Provision and the applicable Federal Wage Decision in the construction of the projects. HUD has delegated to CDC certain ministerial responsibilities to enforce labor standards and to ensure the rights of construction workers to receive Federal prevailing wage rates on HUD-assisted construction projects undertaken by a local agency.

The Interagency Agreements also require the department to retain ten (10%) percent of the construction contract award to allow for the availability of funds to remedy any outstanding labor compliance violation. Also, in accordance with California Public Contract Code, Section 7107 (C), if there is a dispute between the Department and the contractor, the Department may withhold from the final payment to the contractor an amount not to exceed 150 percent of the disputed amount. In accordance with the Public Contract Code, the Department is withholding partial retention of \$5,333 from the Amigo Park contractor and partial retention of \$9,555 from the Lennox Park contractor. The entire retention to the Roosevelt Park contractor had been released prior to the review in February 2003.

As a result of HUD and CDC's labor compliance review of the three projects, the Department currently estimates that the total wage underpayment does not exceed \$37,000 resulting from underpayment of prevailing wages, payroll deductions reflected in the certified payroll reports as "other" that were not properly documented, unconfirmed wage restitution payments, and unsupported delinquent apprentice documentation.

County Counsel has reviewed these actions.

#### **NEGATIVE DECLARATION/ENVIRONMENTAL DOCUMENTATION**

These actions are exempt from the California Environmental Quality Act according to Section 10561 (b), (3) of the Guidelines for the Implementation of the California Environmental Quality Act because it can be seen with certainty that these actions will have no significant effect on the environment.

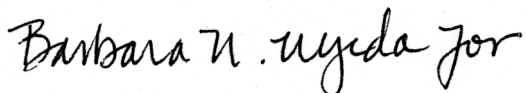
#### **IMPACT ON CURRENT SERVICES (OR PROJECT)**

Payment of the deposit will not have an impact on any other services or projects but failure to resolve the outstanding findings could result in the loss of future CDBG funds to the Department and/or CDC.

#### **CONCLUSION**

Please instruct the Executive Officer-Clerk of the Board to forward the original and four (4) conformed copies of this letter to the Department of Parks and Recreation and one (1) conformed copy to the Chief Administrative Office Capital Projects Division.

Respectfully submitted,



Tim Gallagher  
Director

c: Executive Officer (22)  
Chief Administrative Office  
Community Development Commission